

MDR Tracking Number: M5-05-1803-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 2-28-05.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

CPT codes 97110 and 97112 (1 unit) from 4-19-04 through 6-15-04 and code 99212 on 4-30-04, 5-15-04, 6-1-04, 6-18-04 and 7-1-04 **were found** to be medically necessary. CPT codes 97110, 97112 and 99212 on remaining dates of service and CPT codes 97140 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. The amount due the requestor for the medical necessity issues is \$3,875.58.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The respondent raised no other reasons for denying reimbursement for the above listed services.

Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge.

This Finding and Decision is hereby issued this 2<sup>nd</sup> day of May 2005.

Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$3,875.58 from 4-19-04 through 7-1-04 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is hereby issued this 2<sup>nd</sup> day of May 2005.

Manager, Medical Necessity Team  
Medical Dispute Resolution  
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

---

April 20, 2005

TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-05-1803-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

\_\_\_ was injured while working for UPS on \_\_\_. The records indicate that Mr. \_\_\_ was injured while lifting a 75 pound package from the rear bumper of a truck then felt a sharp pain in the lower center of his back. He indicates an injury in \_\_\_ of a similar nature. He was treated with passive therapies, active therapeutics, medications, TENS unit, TESI's, facet injections and SI injections. The FCE of 3/31/04 indicates that he is functioning at a medium PDL while he is required to perform at a very heavy PDL. The peer review by Dr. Greenburg indicates an initial 12 visits of PT would be necessary. Later a peer review by Dr. Sage indicates that care through 4/15/04 would be considered necessary (20 to 30 visits per report). The designated doctor placed him at MMI on 6/23/04. Dr. Mohamed indicates that he disagrees with this finding.

### RECORDS REVIEWED

Records were received from the requestor and from the respondent. Records from the requestor include the following: position statement of 1/19/05, 3/23/04 concurrent review by Daniel Greenburg, MD, 8/25/04 chiropractic modality review by George Sage, DC, operative reports of 4/15/04, 5/19/04, 7/2/04, 8/12/04, 9/22/04, 11/17/04 and 12/8/04, PRC daily progress notes from 4/19/04 through 08/11/04, Pain Institute of TX (PIT) referral slip of 1/23/04, Pain and Recovery Clinic (PRC) job description and intake paperwork, PRC initial Eval notes by Clay Meekins LPT, PT progress notes of 3/1/04, 4/5/04, 5/7/04, 6/9/04, 7/7/04, 8/11/04, 9/29/04, 11/9/04 PIT follow up notes of 7/29/04, 8/19/04, 9/9/04, 9/30/04, 10/14/04, 10/28/04, 11/15/04 and 11/29/04 by Dr. Mohammed.

Records from the carrier include some of the above in addition to the following: hand written treatment schedule from 1/04 through 01/05, 3/12/04 Richard Levy, MD report (relating to an injury date of 1/25/02), 3/24/04 peer review by John Harney, MD, 2/12/04, 3/4/04, 3/18/04, 3/25/04, 4/22/04, 5/27/04, 6/17/04 and 7/8/04 follow up notes by Dr. Mohammed, various TWCC 73's, PRC daily notes from 1/26/04 through 6/23/04, lumbar radiographic report of 2/5/04, lumbar MRI of 3/15/04, neurodiagnostic testing of 3/22/04, 3/31/04 FCE, 3/31/04 RME by Miguel Jocson, MD, letter from Carla Longhoffer of 6/18/04, TWCC 69 with report by H. Schilling, MD acting as a DD of 6/23/04, TWCC 33 of 6/30/04 and a rebuttal letter of 7/9/04 by PIT.

## DISPUTED SERVICES

The items under dispute include the following according to the Notification of IRO Assignment from TWCC: 99212, 97110, 97140 and 97112 from 4/19/04 through 8/11/04.

## DECISION

The reviewer disagrees with the previous adverse determination regarding codes 97110 and 97112 (1 unit) from 4/19/04 through 6/15/04 and code 99212 on the following dates (4/30/04, 5/15/04, 6/1/04, 6/18/04, 7/1/04). All codes 97110/97112 are not approved on the dates in which code 99212 is approved (4/30/04, 5/15/04, 6/1/04) as per Medicare guidelines.

The reviewer agrees with the previous adverse determination regarding all remaining services.

## BASIS FOR THE DECISION

The reviewer has reviewed the study from Spine in 2002 regarding ESI's in lumbar radiculopathy by Vad et al. The reviewer indicates that the conclusions do not appear to be influenced by rehabilitation. The conclusions related to the differences between transforaminal ESI's and saline trigger-point injections in the treatment of lumbar radiculopathy. No mention of rehabilitation is contained in the abstract or its conclusions. According to B Chen, MD and P Foye MD from E-Medicine Online indicate, "ESIs are performed best in combination with a well-designed spinal rehabilitation program. In most cases, epidural injections are considered after other attempts of treatment (eg, physical therapy, manual therapy, medications) have failed to improve patients' symptoms". The reviewer indicates that it is generally medically accepted that pain management injections are an integral part of the rehabilitative process in a chronic spinal injury (i.e. ESI's are generally followed by rehabilitation for a limited period of time). The active therapeutics cannot proceed for an unlimited time. In conjunction with accepted medical protocols, therapeutics can be approved for a period of four to eight weeks depending on patient response. The patient had an initial injection on 4/15/04. Therefore, it is within reasonable medical probability that the injections and rehabilitation through 6/15/04 could be considered medically necessary.

The reviewer indicates that office visits were not necessary on each visit under question. It is reasonable to have an office visit once every two weeks or as needed to re-evaluate/change a treatment protocol as needed. The reviewer indicates that passive therapies are not necessary at this late date after injury (three months post injury).

It is difficult to determine the patient's progress in a functional manner, as there was only one FCE, which was provided; however, as of 3/31/04 the patient had not met his functional requirements.

## References:

### ACOEM Guidelines

Abram SE, Hoopwood MB: What factors contribute to outcome with lumbar epidural steroids. In: Bond MR, Charlton JE, Wolf CJ, eds. Proceedings of the Vith World Congress on Pain. Amsterdam: Elsevier Science; 1991:491-496.

### ACRB Guidelines of Physiological Therapeutics and Rehabilitation

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director